FILED
AUG 7 1986
JOSEPH F. SPANIOL, JR.
CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1985
NO. 85-2159

ALPHONSO THOMPSON, Petitioner
v.
THE HOUSING AUTHORITY OF THE CITY OF LOS ANGELES, a public corporation, THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE CITY OF LOS ANGELES, MICHAEL H. SALZMAN, AS EXECUTIVE DIRECTOR OF THE HOUSING AUTHORITY OF THE CITY OF LOS ANGELES, and individually, Respondents.

PETITIONER'S REPLY BRIEF AND A PROCEDURAL QUESTION

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Counsel for Petitioner

PROCEDURAL QUESTION

Whether it is prejudicial error for the District Court, in its review under Rule 60, F.R.Civ.P., and for the Appellate Court, in its review of the District Court decision, to ignore the plaintiff/appellant's stated issue of the propriety of rewarding the defendants with a dismissal of plaintiff's case where the defendants' actions and/or inactions were a substantial element of plaintiff's failure to comply with the rules, for which failure plaintiff's case has been dismissed.

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TABLE OF AUTHORITIES

Rule 60 F.R. Civ. P. 1, 2

I. PROCEDURAL QUESTION

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II. PETITIONER'S REPLY

Respondent has raised this issue in its MEMORANDUM IN OPPOSITION by once again ignoring it and focusing the court's attention on only the failure of plaintiff to comply and on the authorities for dismissal for such failure. The respondent did not face that issue in the District

Court nor in the Ninth Circuit Court of Appeal. It appears in the Petition at pages 11 and 12.

It is the usual practice, where the Court is making a decision on less than all of the issues presented, for the decision to refer to the undecided issue and either state that it has been considered and rejected or that it is not necessary to reach that issue because the decided issue disposes of the case.

III. DISCUSSION

In this instance, it does not appear that the District Court or the Appellate Court could have been aware of the issue and not have, at the very least, given it some recognition.

The defendants failed to discuss the issue or even mention it in either their response to plaintiff's motion pursuant to Rule 60, F.R.Civ.P. in the District Court, or in their briefs in the Ninth

Circuit Court of Appeals, but rather, concentrated on plaintiff's failure to comply. A NEEDLE IS BURIED BENEATH STRAW!

IV. CONCLUSION

Petitioner begs the Court's indulgence in accepting and considering this as a reply brief, based upon respondent's repeated failure to face the issue, and based thereon, grant the Petition.

DATED: JULY 29, 1986

Respectfully submitted,

DAVID SILVERTON LAW CORPORATION
Loyal A. Weaver, Esq.
4032 Wilshire Boulevard
Suite 300
Los Angeles, CA 90010
213/381-7511

BY: _____
LOYAL A. WEAVER
Attorneys for Petitioner

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I have read the foregoing _____ and know its contents.

☒ CHECK APPLICABLE PARAGRAPH

☐ I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

☐ I am ☐ an Officer ☐ a partner _____ ☐ a _____ of _____ a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. ☐ I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. ☐ The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

☐ I am one of the attorneys for _____, a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on _____, 19___, at _____ California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

_____ Type or Print Name

_____ Signature

ACKNOWLEDGMENT OF RECEIPT OF DOCUMENT

(other than summons and complaint)

Received copy of document described as _____

on _____ 19___.

_____ Type or Print Name

_____ Signature

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California.

I am over the age of 18 and not a party to the within action; my business address is:

4032 Wilshire Blvd., Ste. 300, Los Angeles, CA 90010

On July 30, 19 86, I served the foregoing document described as

PETITIONER'S REPLY BRIEF

on interested parties

in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

ANDERSON, McPHARLIN, & CONNERS
624 South Grand Avenue
19th Floor
Los Angeles, CA 90017
ATTN: THOMAS J. CASAMASSIMA &
JAMES L. FERRO

☒ (BY MAIL) I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at Los Angeles California.

Executed on July 30, 19 86 at Los Angeles, California.

☐ (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee.

Executed on _____, 19___, at _____, California.

☐ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☒ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

ESTHER NEVAREZ
Type or Print Name

/s/
Signature

STUART'S EXBROOK TIMESAVER (REVISED 6/83)

(May be used in California State or Federal Courts)

BEST AVAILABLE COPY